

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA	§	
	§	
	§	
VS.	§	CASE NO. 2:17-CR-390(1)
	§	
	§	
DAVID KEITH WILLS	§	

MOTION TO ISSUE SUBPOENA DUCES TECUM
REQUIRING PRODUCTION OF DOCUMENTS

**TO THE HONORABLE JASON B. LIBBY, UNITED STATES MAGISTRATE
JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, CORPUS CHRISTI
DIVISION:**

COMES NOW, defendant **DAVID KEITH WILLS**, by and through undersigned counsel, and hereby files this motion to issue subpoenas duces tecum requiring the production of documents pursuant to Federal Rule of Criminal Procedure Rule 17, and in support of the same would show this Honorable Court the following:

Federal Rule of Criminal Procedure 17 (c), permits the defendant to subpoena a witness, “to produce any books, papers, documents, data, or other objects the subpoena designates” at a specified time and place. Fed. R. Crim. P. 17(c). When the defendant has sufficient financial resources to pay the requisite costs associated with a subpoena, then “the entire [subpoena] process may be completed without any intervention by the court (other than the application to the Clerk) and without notice to the adverse party.” *United States v. Beckford*, 964 F. Supp. 1010, 1015, 1017-18

(E.D. Va. 1997); *See also United States v. Florack*, 838 F. Supp. 77, 79 (W.D.N.Y. 1993).

Rule 17(c) requires a showing of relevance, admissibility and specificity to a matter in issue for a subpoena's issuance. *See United States v. Nixon*, 418 U.S 683, 699 (1974).

Defendant Wills, requests this Court permit his application for a Rule 17(c) subpoena to protect his strategy and his constitutional right to compulsory process.

The materials sought

Wills moves this Court for issuance of Rule 17(c) subpoenas to the following entities for the following materials:

1. All bank records showing the source of funds deposited to Seafood Products Development, LLC that funded the cashiers checks, issued from Wells Fargo, to pay for Wills' bond.
2. The organizational chart showing the relationship between Sea Products Development LLC, Global Blue Technologies, and the other affiliated companies, coined by Global Blue Technologies on its web site GlobalBlueTechnologies.com as "The Global Blue Family."
3. The operating agreement for Sea Products Development LLC, a Texas Limited Liability Company
4. The Certificate of Formation for Sea Products Development LLC.
5. The Texas Franchise Tax Public Information Report for Sea Products Development, LLC for the 2017, 2018, 2019 calendar years.
6. The list of Corporate Officers, pursuant to Board of Director meetings of the shareholders, for the 2017, 2018, and 2019 calendar years
7. A list of all members of Sea Products Development, LLC from 2017 through 2019.

8. Financial documents showing the disbursement and deposit of bond funds, booked as receivables, in the financial records of Sea Products Development LLC.
9. Any and all communications (whether in writing or electronic) from officers, directors, executives, or members of Sea Products Development, LLC; or any affiliated companies; indicating that the financial records of Sea Products Development, LLC concerning the bond funds, listed as receivables, should be reclassified.

Wills requests that the subpoenaed information be produced in advance of the hearing regarding the disbursement of bond funds, in order to avoid delays during this hearing. This is not information that can be utilized during this hearing without advanced preparation. Further, upon review of the financial documents, the defense may need to obtain additional financial records. The identity of company personnel and their communications may lead to the need for additional witnesses or communications.

Nixon test is met

These subpoenas satisfy the rubric of “(1) relevancy; (2) admissibility; [and] (3) specificity.” *United States v. Nixon*, 418 U.S. 683, 699 (1974). In essence, “[t]he test...is whether the subpoena constitutes a good faith effort to obtain identified evidence rather than a general ‘fishing expedition’ that attempts to use the rule as a discovery device.” *United States v. Cuthbertson*, 630 F.2d 139, 144 (3rd Cir. 1980).

The documents from Sea Products Development, LLC will show who owned the funds in question, prior to their conveyance to Richard Feldman to deposit with the Court, and their assignment to Goldstein and Orr. These documents will be admissible with a business records affidavit or custodian testimony. Further, the

documents are relevant to the identification of the company's agents and representatives, and will identify who had the authority to manage the company, the power to transfer funds, assign funds, and who had the authority to sign checks on behalf of the company.

WHEREFORE PREMISES CONSIDERED, Mr. Wills prays this Honorable Court to grant his request for issuance of Rule 17(c) subpoenas, and further prays said subpoenas requested herein and attached hereto to issue.

Respectfully Submitted,

By: /s/ Cynthia E. Orr
Cynthia E. Orr

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CERTIFICATE OF SERVICE

This is an application for issuance of Fed. R. Crim. Proc. 17(c) that has been electronically delivered, with a true and accurate copy of the foregoing instrument, to Assistant United States Attorney Zahra Fenelon, as a registered participant to the CM/ECF document filing system and by email to Zahra.fenelon@usdoj.gov, on this the 3rd day of January 2020.

By: /s/ Cynthia E. Orr
Cynthia E. Orr

CERTIFICATE OF CONSULTATION

Undersigned counsel attempted to confer with Assistant United States Attorney Zahra Fenelon on January 1, 2020 *via* phone call and was unable to reach her.

By: /s/ Cynthia E. Orr
Cynthia E. Orr

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ORDER

On the ____ day of _____, 2020, came on to be heard Wills' motion for issuance of subpoenas duces tecum pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure. Having considered the merits of same, Defendant's Motion is:

(GRANTED) (DENIED)

IT IS SO ORDERED.

HON. JASON B. LIBBY
UNITED STATES MAGISTRATE JUDGE